

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA, *ex rel.*
JAHR, *et al.*,

Plaintiff,

v.

TETRA TECH EC, INC., *et al.*,

Defendants.

UNITED STATES OF AMERICA, *ex rel.*
MCLAUGHLIN,

Plaintiffs,

v.

SHAW ENVIRONMENTAL &
INFRASTRUCTURE, INC., *et al.*,

Defendants.

LINDA PARKER PENNINGTON, *et al.*,

Plaintiffs,

v.

TETRA TECH EC, INC., *et al.*,

Defendants.

**STIPULATION AND ~~PROPOSED~~ ORDER
REGARDING DISCOVERY PROTOCOL
AND CASE MANAGEMENT ORDER
NUMBER ONE**

Assigned to Hon. Judge James Donato

Case No. 3:13-cv-03835-JD; 3:16-cv-1106-JD;
3:16-cv-1107-JD

Case No. 3:14-cv-01509-JD

Case No. 3:18-cv-05330-JD

**STIPULATION AND [PROPOSED] ORDER REGARDING DISCOVERY PROTOCOL AND CASE
MANAGEMENT ORDER NUMBER ONE**

BAYVIEW HUNTERS POINT
RESIDENTS, *et al.*,

Plaintiffs,

v.

TETRA TECH EC, INC., *et al.*,

Defendants.

Case No. 3:19-cv-01417-JD

KEVIN ABBEY, *et al.*,

Plaintiffs,

v.

TETRA TECH EC, INC., *et al.*,

Defendants.

Case No. 3:19-cv-7510-JD

KEVIN ABBEY, *et al.*,

Plaintiffs,

v.

UNITED STATES OF AMERICA, *et al.*,

Defendants.

Case No. 3:20-cv-06443-JD

CPHP DEVELOPMENT, LP, *et al.*,

Plaintiffs,

v.

TETRA TECH EC, INC., *et al.*,

Defendants.

Case No. 3:20-cv-1485-JD

FIVE POINT HOLDINGS, LLP, *et al.*,

Plaintiffs,

v.

UNITED STATES OF AMERICA, *et al.*,

Defendants.

Case No. 3:20-cv-1480-JD

FIVE POINT HOLDINGS, LLP, *et al.*,

Plaintiffs,

v.

Case No. 3:20-cv-1481-JD

1 TETRA TECH EC, INC., *et al.*,

2 Defendants.

3 TETRA TECH EC, INC.,

4 Plaintiff,

5 v.

6 CH2M HILL, INC., *et al.*,

7 Defendants.

Case No. 3:19-cv-04704-JD

8 Counsel for the parties in the following cases (the “Parties”), by and through their
 9 respective counsel of record, submit this Stipulation Regarding Discovery Protocol And Case
 10 Management Order Number One and request that the Court enter the attached [Proposed] Order in
 11 the FCA Cases, the Parcel A Cases, the Building 606 Cases, the Residents’ Case, and the
 12 Commercial Cases, which terms are defined as follows:

13 “**FCA Cases**” are: *US ex rel. Jahr et al. v. Tetra Tech EC, Inc. et al.*, Case No. 3:13-cv-
 14 3835-JD; *US ex rel Smith v. Tetra Tech EC, Inc. et al.*, Case No. 3:16-cv-1106-JD; *US ex rel.*
 15 *Wadsworth et al. v. Tetra Tech EC, Inc. et al.*, Case No. 3:16-cv-1107-JD; and *US ex rel.*
 16 *McLaughlin v. Shaw Environmental & Infrastructure, Inc. et al.*, Case No. 14-cv-1509-JD.

17 “**Parcel A Cases**” are: *Pennington v. Tetra Tech et al.*, Case No. 3:18-cv-05330-JD;
 18 *Ellington v. Tetra Tech*, Case No. 3:18-cv-05352-JD; *Lin v. Tetra Tech et al.*, Case No. 3:18-cv-
 19 05771-JD; *Farrell v. Tetra Tech et al.*, Case No. 3:19-cv-00248-JD; *Yegorov v. Tetra Tech et al.*,
 20 Case No. 3:19-cv-00252-JD; *Darden v. Tetra Tech et al.*, Case No. 3:19-cv-00247-JD; *Fried v.*
 21 *Tetra Tech et al.*, Case No. 3:19-cv-00249-JD; *Lupton v. Tetra Tech et al.*, Case No. 3:19-cv-
 22 00251-JD; *Bravo v. Tetra Tech et al.*, Case No. 3:19-cv-00667-JD; *Carter v. Tetra Tech et al.*,
 23 Case No. 3:19-cv-02555-JD; *Hershowitz v. Tetra Tech et al.*, Case No. 3:19-cv-02698-JD; *Kaplan*
 24 *v. Tetra Tech et al.*, Case No. 3:19-cv-02740-JD; *Yun v. Tetra Tech et al.*, Case No. 3:19-cv-
 25 02771-JD; *Castro v. Tetra Tech et al.*, Case No. 3:19-cv-02810-JD; *Zhu v. Tetra Tech et al.*, Case
 26 No. 3:19-cv-03932-JD; *LaRrett v. Tetra Tech et al.*, Case No. 3:19-cv-03941-JD; *Chen v. Tetra*

Tech et al., Case No. 3:19-cv-03955-JD; *Yang v. Tetra Tech et al.*, Case No. 3:19-cv-03992-JD; *Datta v. Tetra Tech et al.*, Case No. 3:19-cv-05405-JD; *Duncan v. Tetra Tech et al.*, Case No. 3:19-cv-05408-JD; and *San Francisco Shipyard Residents v. Tetra Tech et al.*, Case No. 3:19-cv-06137-JD.

“**Building 606 Cases**” are: *Kevin Abbey v. Tetra Tech, et al.*, Case No. 3:19-cv-07510-JD; and *Kevin Abbey v. United States*, Case No. 3:20-cv-06443-JD.

“**Residents’ Case**” is: *Bayview Hunters Point Residents v. Tetra Tech et al.*, Case No. 3:19-cv-01417-JD.

“**Commercial Cases**” are: *Five Point Holdings v. USA*, Case No. 3:20-cv-01480-JD (“*Five Point v. U.S.*”); *Five Point Holdings v. Tetra Tech et al.*, Case No. 3:20-cv-01481-JD; *CPHP Development v. Tetra Tech et al.*, Case No. 3:20-cv-01485-JD (“*CDHP*”); and *Tetra Tech EC, Inc., v. CH2M Hill, Inc., et al.*, Case No. 3:20-cv-04704-JD (“*CH2M*”).

All Parties named in the above referenced cases (collectively, the “Actions”) are referred to collectively as the “Parties” or in the singular as a “Party.”

Counsel for the Parties have met and conferred as required by Federal Rule of Civil Procedure 26(f). Pursuant to Rule 26(f), Civil Local Rule 16-9, and the Standing Order for All Judges of the Northern District of California the Parties in the Actions submit the following Stipulated Discovery Plan for the above-captioned cases:

A. Stipulated Discovery Orders:

The Court has approved stipulated orders regarding the following:

- Stipulated Protective Order (*CPHP* ECF No. 40)
- Stipulated Order Regarding Federal Rule of Evidence 502(d) (*CPHP* ECF No. 111)
- Stipulated Order Regarding ESI (*CPHP* ECF No. 105)

B. Deposition Protocol:

The following provisions supplement and amend the Court’s April 26, 2022, order (*Five Point v. U.S.* ECF No. 114), the deposition limits in Fed. R. Civ. P. 30 are revised as follows and

1 applicable to the Actions:^{1,2}

- 2 • Side 1³ may collectively take 70 depositions of 7 hours each.
- 3 • Side 1 may collectively take an additional 6 depositions of 14 hours each.
- 4 • Side 2⁴ may collectively take 70 depositions of 7 hours each.
- 5 • Side 2 may collectively take an additional 6 depositions of 14 hours each.
- 6 • Side 1 may notice the deposition of the same witness noticed by Side 2, and vice
- 7 versa. Side 1's time with that witness will not count against Side 2's time with that
- 8 witness, and vice versa. If both Sides notice a deposition of the same witness, the
- 9

10
11 ¹ Under this Order "Five Point" includes Five Point Holdings LLC, CP Development Co., LLC,
12 and Emile Haddad; "CPHP" includes CPHP Development, LP, HPS Development Co., LP, HPS1
13 Block 50, LLC, HPS1 Block 51, LLC, HPS1 Block 53, LLC, HPS1 Block 54, LLC, HPS1 Block
14 55, LLC, HPS1 Block 56/57, LLC, Lennar Corporation, and Lennar Inc.; "Tetra Tech" includes
15 Tetra Tech, Inc., Tetra Tech, EC Inc., Andrew Bolt, Dan L. Batrack, Steven M. Burdick, and
16 William Dougherty; "Shaw" includes Shaw Environmental and Infrastructure, Inc., Chicago
17 Bridge & Iron Co. N.V., Aptim Corp., Aptim Environmental & Infrastructure, Inc., and Aptim
18 Federal Services, LLC; "CH2M Parties" includes CH2M Hill, Inc., Battelle Memorial Institute,
19 Cabrera Services, Inc., Perma-Fix Environmental Services, Inc., and SC&A, Inc.; "RSRS"
20 includes Radiological Survey & Remediation Services, Inc./LLC, Brian Henderson, and Daryl
21 DeLong; "Relators" includes Arthur R. Jahr III, Susan V. Andrews, Elbert G. Bowers, Archie R.
22 Jackson, Anthony Smith, Donald K. Wadsworth, and Robert McClean.

23 ² The scope and terms of this Discovery Plan do not include the *USA ex rel. McLaughlin v. Shaw*
24 *Environmental & Infrastructure, Inc. et al.* 14-cv-01509-JD case which was dismissed by Order of
25 June 28, 2022, unless the pending Motion under FRCP 59 to Amend or Alter the Judgment is
26 granted to permit FCA allegations to proceed against the Shaw Defendants. The scope and terms
27 of this Discovery Plan does not include the *Anthony Smith* allegations regarding Treasure Island,
and the *Wadsworth/McLean* allegations regarding Treasure Island and the Alameda Naval Air
Station contained in the Relators' FCA combined complaints. This Discovery Plan also
contemplates that the putative class actions proceed as class actions. To the extent one or more of
the putative class actions does not proceed as a class action, the Parties agree to meet and confer
regarding appropriate modifications to the procedures outlined herein.

³ For purposes of this Order "Side 1" is defined as CPHP, Five Point, plaintiffs in the Parcel A
Cases, plaintiffs in the Residents' Case, plaintiffs in the Building 606 Cases, the Relators, and the
CH2M Parties. *See* Docs. 112 and 114.

⁴ For purposes of this Order "Side 2" is defined to include the United States, Tetra Tech, Shaw,
RSRS, and IO Environmental & Infrastructure, Inc. *Id.*

deposition shall run on consecutive business days until completed unless the witness desires otherwise, subject to the time limits herein.

- The CH2M Defendants shall be entitled to 2 additional depositions (one 30(b)(6) deposition of the Navy, and one 30(b)(6) deposition of TtEC).
- The deposition notice shall indicate whether the noticed deposition is one of the six allocated fourteen-hour depositions.

The Court will consider additional depositions and deposition time if supported by a showing of good cause. The Parties understand the Court's April 26, 2022 Order not to apply to expert depositions and agree the deposition limits and procedures contemplated in this [Proposed] Order do not apply to depositions of any experts designated pursuant to FRCP 26.

Each Side may depose any and all witnesses produced to testify on each agreed upon Federal Rule of Civil Procedure 30(b)(6) topic, but (unless otherwise specified herein) each 7-hour⁵ period of 30(b)(6) deposition testimony shall count as one deposition for the purpose of the Side's limit (*e.g.*, the depositions of seven 30(b)(6) witnesses for two hours each (14 hours in total) will count as two depositions). All parties on a given Side shall coordinate to issue a single 30(b)(6) notice to a party on the other Side, and deposition notices may cover no more than 25 topics, each of which are to be described with reasonable particularity. Paragraph 16 of the Court's Standing Order for Discovery in Civil Cases shall otherwise apply to all depositions under FRCP 30(b)(6). Any party may move to have the Court allow additional topics upon a showing of good cause.

The Party taking a deposition must give written notice to every other Party at least 30 days prior to the date of the deposition. Notice shall be served on each Party by e-mail and by posting the document on the parties' Magna database. The notice shall state whether the deposing Party intends to conduct the deposition in person or remotely by video teleconference. If the deposition

⁵ All time periods for *depositions* refer to time on the record in which the witness is being questioned.

1 is to be conducted in person, the deposing Party shall ensure that any Party that elects to
2 participate remotely by video teleconference may do so. Any Party objecting to a deposition being
3 conducted remotely shall notify the noticing Party by email within 7 days of receiving the
4 deposition notice. The Parties shall meet and confer in an attempt to resolve those objections. If
5 the Parties are unable to resolve those objections, the responsibility shall be on the noticing Party
6 to obtain the Court's permission to conduct the deposition by remote means consistent with
7 Federal Rules of Civil Procedure Rule 30(b)(4) ("*By Remote Means*. The Parties may stipulate—or
8 the court may on motion order—that a deposition be taken by telephone or other remote means.
9 For the purpose of this rule and Rules 28(a), 37(a)(2), and 37(b)(1), the deposition takes place
10 where the deponent answers the questions."). Unless otherwise ordered by the Court, the
11 deponent must be in the same room as the Court Reporter and videographer if the deposition is
12 conducted remotely. In the event a deposition is to be conducted remotely, any Party may attend
13 the deposition in person at their sole discretion. The Parties expressly disclaim any intent to
14 stipulate to remote depositions in the Actions.

15 Parties will use their best efforts to make witnesses available for deposition at a mutually
16 agreeable time and location and without undue delay. If a witness is a former employee of any
17 Party and is not represented by counsel, upon receipt of a deposition notice for the former
18 employee, that Party shall, within 14 days of the deposition notice, provide the date of departure
19 and last known address of the former employee, whether the Party's counsel will accept service of
20 the notice, whether the Party's counsel will be representing that Party in connection with the
21 deposition and, if not, the name and contact information for the witness' counsel or that the
22 witness is unrepresented. To the extent this information has previously been provided in response
23 to discovery requests or required disclosures, the Party need only confirm within 14 days that the
24 previously provided information remains operative.

25 If a Party serves a subpoena for the production of documents or electronically stored
26 information and a subpoena commanding attendance at a deposition, the Party serving the
27

1 subpoena must schedule the deposition for a date at least 14 days after the return date for the
2 document subpoena, and if the Party serving the subpoena agrees to extend the date of production
3 for the document subpoena in a way that would result in fewer than 14 days between the extended
4 production date and the date scheduled for the deposition, the date scheduled for the deposition
5 must be postponed to be at least 14 days following the extended production date, unless all Parties
6 consent to fewer than 14 days.

7 The deposition notice shall indicate whether the noticed deposition is one of the six
8 allocated fourteen-hour depositions

9 During depositions noticed by only one side, the non-noticing side may cross-examine the
10 witness for up to one hour at the conclusion of direct examination, and the side who conducted the
11 direct examination shall be entitled to redirect examination of the witness for no more than the
12 same amount of record time as the cross-examination, regardless of whether the cross-examination
13 and/or redirect examination extends past the 7 hour limit. For any deposition lasting longer than 7
14 hours, the deponent may demand that the time remaining after the seventh hour be completed on
15 the noticed date, or be carried over to be completed on the next consecutive business day.

16 Each Side shall coordinate in the noticing and scheduling of all depositions. Any
17 deposition noticed by a Side shall automatically be deemed to have been noticed by all Parties on
18 that Side, in the Actions and shall count against the total number of depositions allotted to their
19 respective Sides. Any person deposed in the Actions shall automatically be deemed to have been
20 deposed in all cases and shall not be deposed again in any of the Actions absent stipulation or
21 leave of Court. Objections are preserved for all Parties when one Party makes the objection. Side 1
22 and Side 2 in the Actions may divide the time allotted to their side in any manner they choose,
23 provided that they do not collectively exceed the time allotted to their side and make reasonable
24 efforts to coordinate their examination in order to avoid duplicative questioning.

25 The Parties agree that all depositions shall be videotaped. Costs for videotaping the
26 deposition, as well as the cost of the court reporter and any costs associated with remote
27

1 videoconference hosting, shall be borne by the noticing Party, except parties are expected to pay
 2 for copies of transcripts and videos that they order for themselves and to pay for and arrange for
 3 their own videoconference access. In the event a deposition is noticed by more than one Party,
 4 costs for videotaping, court reporting, and remote videoconference hosting will be evenly split
 5 between the Parties noticing the deposition.

6 The Parties shall follow Civil Local Rule 30-2 of the United States District Court for the
 7 Northern District of California with regard to consecutive numbering of deposition exhibits, which
 8 requires as follows:

9 **“(a) Sequential Numbering of Pages.** The pages of the deposition of a single
 10 witness, even if taken at different times, must be numbered sequentially

11 **(b) Sequential Numbering of Exhibits.** Documents identified as exhibits during
 12 the course of depositions and at trial must be numbered and organized as follows:

13 **(1)** At the outset of the case, counsel must meet and confer regarding the
 14 sequential numbering system that will be used for exhibits throughout the
 15 litigation, including trial.

16 **(2)** If the pages of an exhibit are not numbered internally and it is necessary
 17 to identify pages of an exhibit, then each page must receive a page number
 18 designation preceded by the exhibit number (*e.g.*, Exhibit 100-2, 100-3,
 19 100-4).

20 **(3)** To the extent practicable, any exhibit which is an exact duplicate of an
 21 exhibit previously numbered must bear the same exhibit number regardless
 22 of which [P]arty is using the exhibit. Any version of any exhibit which is
 23 not an exact duplicate must be marked and treated as a different exhibit,
 24 bearing a different exhibit number.

25 **(4)** In addition to exhibit numbers, documents may bear other numbers or
 26 letters used by the [P]arties for internal control purposes.”

1 In addition, if possible, each new exhibit shall be given the next available number. If it is
 2 not possible to do so (as, for example, when multiple depositions are conducted on the same day),
 3 then the Parties shall break the sequence and use higher numbers to avoid duplication. If, through
 4 inadvertence, the same exhibit has been marked with different exhibit numbers, the Parties shall
 5 assign the lowest such exhibit number to the exhibit and conform all deposition transcripts and
 6 exhibits to reflect the lowest number. The superseded number shall not be reused by the Parties.
 7 For example, if the same exhibit has been marked as 52 in the deposition of A and 125 in the
 8 depositions of B, C and/or D, the exhibit marked 125 shall be renumbered 52 and the depositions
 9 of B, C and D shall be conformed to the renumbered exhibit. Thereafter, number 125 shall not be
 10 used.

11 The Parties stipulate to the handling of the deposition transcripts in all depositions in the
 12 Actions as follows:

- 13 • The court reporter(s) is relieved of their duties under the Federal Rules of Civil
 14 Procedure and the local rules of the Northern District of California.
- 15 • Upon completion of the transcript, the court reporter shall deliver the original transcript
 16 directly to the attorney representing the deponent at deposition (“Representing
 17 Attorney”).
- 18 • The Representing Attorney will take responsibility for forwarding the original
 19 transcript to the deponent.
- 20 • Unless otherwise agreed by all Parties attending the deposition and the deponent, the
 21 deponent shall have 30 days from receipt of the original transcript by the Representing
 22 Attorney to review the transcript, sign it, make any changes they deem necessary and
 23 provide the original signed deposition with corrections to the Representing Attorney.
 24 “If there are changes in form or substance [to the original transcript], [the deponent
 25 shall] sign a statement listing the changes and the reasons for making them.” Federal
 26 Rule of Civil Procedure Rule 30 (e)(1)(B).

- 1 • The Representing Attorney will take responsibility for serving a copy of any changes to
- 2 the deposition and the deposition signature page on all Parties to the Action.
- 3 • The Representing Attorney's firm shall maintain custody of the original transcript.
- 4 • In the event the original transcript is not available, a certified copy of any transcript
- 5 may be used in lieu of the original at trial or any related proceeding.
- 6 • Counsel and/or the deposition officer must state this stipulation on the record at the
- 7 close of the depositions consistent with Federal Rule of Civil Procedure Rule 30 ("At
- 8 the end of the deposition, the officer....must set out any stipulations made by the
- 9 attorneys about custody of the transcript or recording and of the exhibits, or about any
- 10 other pertinent matters.")
- 11 • This stipulation shall not be modified except by written stipulation of the Parties
- 12 approved by the Court, or by order of the Court, for good cause shown.

13 The Parties have agreed to utilize Magna Legal Services ("Magna") as the court reporter
 14 and videographer for all depositions in the Actions. A copy of each final deposition transcript and
 15 exhibits, including the final signature page of the deponent and any deposition changes made by
 16 the deponent, shall be maintained on the Magna database consistent with the agreement between
 17 the Parties and Magna. It shall be the responsibility of Magna to load the final transcript onto the
 18 Magna database upon completion of the final certified transcript by the court reporter. It shall be
 19 the responsibility of the Representing Party to load the deponent's signature page and any
 20 deposition changes made by the deponent onto the Magna database upon receipt of same from the
 21 deponent.

22 The Parties will meet and confer to discuss further issues regarding allocation of time
 23 among Parties, deposition notice procedures, and other logistical issues.

24 **C. Written Discovery:**

25 **Interrogatories and Requests for Admission:** With respect to written interrogatories,
 26 the Parties agree to proceed under the limits provided in the Rules of Civil Procedure and Local

Rules. If a Party believes that additional written discovery is warranted it may move the Court to allow such additional discovery, which the Court may grant upon a good cause showing.

Regarding requests for admissions, Five Point, CPHP, Tetra Tech, and the United States shall each be permitted to serve 125 total requests for admission pursuant to Fed. R. Civ. P. 36 in the Commercial Cases (excluding the CH2M Case). Plaintiffs and Defendants in the FCA cases each may serve 125 total requests for admissions in the FCA Cases. Plaintiffs and Defendants in the CH2M Case, Parcel A Cases, the Residents Cases, and the Building 606 Cases agree to proceed under the limits provided in the Rules of Civil Procedure and Local Rules. Requests for admission regarding the authenticity, genuineness or identity of documents under F.R.E. 901 or FRCP 36 are excluded from this limit. The Court will consider requests by a Party to serve additional requests for admissions upon a showing of good cause.

D. Service:

All deposition notices, discovery requests, and discovery responses shall be served via email to counsel for all Parties in the Actions and to the Parties' Magna database. The undersigned Parties agree to electronic service of all such documents.

E. Discovery Coordination with Related Cases:

In order to promote judicial efficiency and avoid unnecessary duplicative costs, all document productions served by any of the Parties in any of the Actions shall be treated as if it had been requested by every Party and no further process or procedure is necessary for those document productions to be utilized in all Actions as if it had been requested by all Parties. Similarly, without counting against the limits provided by the Rules of Civil Procedure and Local Rules with respect to each distinct Action, all Requests for Admission and responses and objections thereto, and all Interrogatories and responses and objections thereto, served by any of the Parties in any of the Actions shall be treated as if they had been requested by every Party and no further process or procedure is necessary for those responses to utilized in all Actions as if it had been requested by all Parties.

1 This provision does not alter any Party's right to assert any objection to the use of any
2 discovery under the Federal Rules of Evidence.

3 **F. Scheduling:**

4 The Parties respectfully suggest that given the complexity of discovery in the Actions and
5 the outstanding motions in related cases, it is premature to order a full pretrial schedule. However,
6 the Parties agree to meet and confer on a full pre-trial schedule. At this time, the Parties agree to
7 the following deadlines:

8 **1. Completion of Production of Documents Responsive to First Party Document**

9 **Production Requests: June 2, 2023.⁶**

10 In the Court's December 2, 2022 Minute Order, the Parties were directed to "meet and
11 confer on a plan to prioritize custodians and narrow search terms, and agree upon procedures that
12 will complete all document production by March 2023 at the latest." The Parties continue to
13 engage in the meet and confer process to prioritize custodians and narrow search terms, and
14 therefore the Court hereby extends the time to complete document productions to June 2, 2023.

15 All document productions must be completed on or before June 2, 2023. The production of
16 privilege logs that comply with Rule 26(b)(5) and the corresponding Advisory Notes shall be
17 completed by July 28, 2023.⁷ Following the filing of this Case Management Order, if any Party
18 believes that it has discovered information, in deposition or otherwise, that demonstrates that
19 existence of Party documents not yet requested or produced, the Parties will meet and confer on
20 the scope of, and good cause for, limited additional document requests. Any such requests must be
21 narrowly tailored to seek a specific document or set of documents.

22
23
24 ⁶ These deadlines do not include Requests for Production served on individual plaintiffs in the
25 *BVHP*, *Abbey*, and *Pennington* cases given the posture of those cases and the status of the Plaintiff
Fact Sheet process in each of those actions. Nor do the deadlines apply to third-party discovery.

26 ⁷ Because a Party may determine that material was improperly withheld on privilege grounds
27 during the course of preparing its privilege logs, some documents may be released before July 28,
2023.

1 Plaintiff Five Point shall use Technology Assisted Review and reasonable search terms,
2 which continue to be negotiated by the parties, to identify and produce responsive records. Five
3 Point shall search the records of 39 custodians, subject to additional negotiation between by the
4 parties.

5 All other plaintiffs and relators shall propose search terms and custodians to defendants to
6 reach agreement on the scope of their respective productions. The parties are directed to work
7 cooperatively to identify search terms that target the discovery of relevant records, and, where
8 possible, reduce the burden on the plaintiffs and relators to produce any extraneous materials.

9 The Tetra Tech Parties will run the search terms to be negotiated by the parties and share
10 “hit reports” based on those search terms. The Tetra Tech Parties have provided preliminary hit
11 reports that would result in the review of 1,220,307 documents. The Parties will engage in further
12 discussions to reduce the total scope of documents requiring review. Tetra Tech will use the list
13 of custodians previously agreed to by the parties (with the addition of Dan Batrack, subject to
14 appropriate limitations on the scope of search terms applicable to his custodial files, *see Jahr Dkt.*
15 300). The parties are directed to identify search terms that target the discovery of relevant records,
16 narrow the scope of document productions, and reduce the burden on Tetra Tech to review
17 extraneous materials.

18 The United States expects to complete production of the Environmental Restoration
19 Program files, the Navy’s environmental analytical and GIS data files, the Nuclear Regulatory
20 Commission files, and the Army Joint Munitions Command files by March 31, 2023, without the
21 need to alter its scope and method of review. To facilitate production of the remaining files, the
22 United States will work with the Parties to reduce the number of EPA and Navy custodian and will
23 apply negotiated search term strings to identity responsive records. The United States will
24 circulate its search string “hit reports” to the other Parties by January 13, 2023. The United States
25 seeks to amend the current Clawback/502(d) Order and Protective Order. The United States will
26 conduct targeted reviews for confidentiality and privilege, however, it contends that it may not be
27

1 able to manually review every document prior to the Court's production deadline given the
 2 volume of potentially responsive material. Certain plaintiffs have expressed concerns about such
 3 amendments. On January 5, 2023, the United States circulated draft stipulations to amend the
 4 current Clawback/502(d) Order and Protective Order to allow for production without penalty,
 5 regardless of the level of pre-production review. The Parties are continuing to meet and confer,
 6 and by January 13, 2023, the Parties will submit proposed stipulated amended Clawback and
 7 Protective Orders or simultaneous letter briefs outlining their respective positions.

8 The parties are directed to work cooperatively to identify search terms that target the
 9 discovery of relevant records, and, where possible, reduce the burden on the government to
 10 produce material that are not proportionate to the needs of the case.

11 On December 21, 2022, Tetra Tech and CH2M exchanged proposals for completing
 12 production of the documents they have requested from each other in the *CH2M* case, and the
 13 parties continue to meet and confer in good faith. To identify documents responsive to the RFPs
 14 served by Tetra Tech and complete its production of responsive, non-privileged, and non-restricted
 15 documents by the court-ordered deadline, CH2M has agreed to search in the centralized document
 16 management sites maintained in connection with the project at issue, as well as in the custodial
 17 files of seven individual custodians, using eight comprehensive search strings. CH2M will
 18 continue to work cooperatively with Tetra Tech as necessary to reduce the number of non-
 19 responsive documents subject to review.

20 **2. Deadline to File and Serve Motion to Certify Classes in Putative Class Actions:⁸**

21 June 16, 2023.⁹

22
 23
 24 ⁸ This deadline does not apply to *Abbey v. United States* because the United States' motion to
 25 dismiss the second amended complaint for lack of subject matter jurisdiction is pending. If
 jurisdiction is established in this case, the United States will meet and confer about briefing
 relevant to putative class issues.

26 ⁹ The Parties to the putative class action cases will meet and confer regarding coordination of
 27 briefing and hearing dates between the three cases.

3. Close of Fact Discovery: December 13, 2024.

4. Simultaneous Expert Disclosures: May 9, 2025.

5. Simultaneous Rebuttal Expert Disclosures: August 8, 2025.

6. Close of Expert Discovery: December 19, 2025.

G. Further Amendment

Except as otherwise provided in this Stipulation, its terms may be amended only by written stipulation of the Parties approved by the Court, or by order of the Court for good cause shown.

IT IS SO STIPULATED, through Counsel of Record.

DATED: January 20, 2023

COTCHETT, PITRE & McCARTHY, LLP

By: */s/ Anne Marie Murphy*

JOSEPH W. COTCHETT (SBN 36324)
ANNE MARIE MURPHY (SBN 202540)
DONALD J. MAGILLIGAN (SBN 257714)
Attorneys for PENNINGTON PLAINTIFFS

DATED: January 20, 2023

WALKUP, MELODIA, KELLY AND
SCHOENBERGER

By: /s/ Khaldoun A. Baghadi

KHALDOUN A. BAGHADI (SBN 190111)
SARA M. PETERS (SBN 260610)
JADE SMITH-WILLIAMS (SBN 318915)
CLIFTON SMOOT (SBN 305728)
Attorneys for PLAINTIFFS KEVIN ABBEY, ET
AL.

DATED: January 20, 2023

BONNER & BONNER

By: */s/ A. Cabral Bonner*

CHARLES A. BONNER (SBN 85413)
A. CABRAL BONNER (SBN 247528)
Attorneys for PLAINTIFFS BAYVIEW
HUNTERS POINT RESIDENTS

1 DATED: January 20, 2023

LAW OFFICE OF DAVID ANTON

2
3 By: /s/ David C. Anton

4 DAVID C. ANTON (SBN 95852)

Attorneys for RELATORS

5 DATED: January 20, 2023

O'MELVENY & MYERS LLP

6
7 By: /s/ Madhu R. Pocha

8 DANIEL M. PETROCELLI (SBN 97802)

DAVID J. MARROSO (SBN 211655)

GEOFFREY H. YOST (SBN 159687)

9 MADHU R. POCHA (SBN 260997)

Attorneys for LENNAR CORP.; HPS

10 DEVELOPMENT CO., L.P.; HPS1 BLOCK 50

11 LLC; HPS1 BLOCK 51 LLC; HPS1 BLOCK 53

LLC; AND HPS1 BLOCK 54 LLC

12 DATED: January 20, 2023

ALSTON & BIRD

13
14 By: /s/ Jeffrey D. Dintzer

15 JEFFREY D. DINTZER (SBN 139056)

MATTHEW C. WICKERSHAM (SBN 241733)

Attorneys for FIVE POINT HOLDINGS, LLC, CP

16 DEVELOPMENT CO., LLC, AND EMILE

HADDAD

17
18 DATED: January 20, 2023

LAW OFFICES OF RICHARD M. STEINGARD

19 By: /s/ Richard M. Steingard

20 RICHARD M. STEINGARD (SBN 106374)

Attorneys for DEFENDANT BILL DOUGHERTY

1 DATED: January 20, 2023

WILMERHALE LLP

2 By: /s/ Christopher A. Rheinheimer

3 DAVINA PUJARI

CHRISTOPHER A. RHEINHEIMER

4 CHRISTOPHER T. CASAMASSIMA

SAMUEL C. LEIFER

5 GEMMA BATEMAN

6 Attorneys for TETRA TECH, INC., TETRA TECH
7 EC, INC., ANDREW BOLT, DAN L. BATRACK,
and STEVEN M. BURDICK

8 DATED: January 20, 2023

BRADLEY ARANT BOULT CUMMINGS LLP

9 By: /s/ Kimberly M. Ingram

10 KIMBERLY B. MARTIN (pro hac vice)

11 KIMBERLY M. INGRAM (SBN 305497)

12 LYNDSEY E. MEDLIN (pro hac vice)

13 Attorneys for DEFENDANTS SHAW
14 ENVIRONMENTAL & INFRASTRUCTURE,
INC., CHICAGO BRIDGE & IRON COMPANY
N.V., APTIM CORPORATION, AND APTIM
FEDERAL SERVICES, LLC

15 DATED: January 20, 2023

BORDIN SEMMER LLP

16 By: /s/ Bryan C. Swaim

17 BRYAN C. SWAIM, SBN 289729

18 bswaim@bordinsemmer.com

19 Attorneys for DEFENDANTS RADIOLOGICAL
20 SURVEY & REMEDIATION SERVICES, LLC,
DARYL DELONG, AND BRIAN HENDERSON

21 DATED: January 20, 2023

TROPEA MCMILLAN, LLP

22 By: /s/ Santino M. Tropea

23 SANTINO M. TROPEA (SBN 249215)

24 Attorneys for DEFENDANT IO
25 ENVIRONMENTAL & INFRASTRUCTURE,
INC.

1 DATED: January 20, 2023

STEPHANIE M. HINDS (SBN 154284)
United States Attorney

2
3 By: /s/ Robert Chandler

4 MICHAEL T. PYLE (SBN 172954)
5 SAVITH IYENGAR
6 Assistant United States Attorneys
7 450 Golden Gate Avenue
8 Ninth Floor, Box 36055
9 San Francisco, CA 94102
10 Tel: (415) 436-7018

11 JAMIE ANN YAVELBERG
12 PATRICK KLEIN
13 ROBERT CHANDLER
14 JONATHAN K. HOERNER
15 JOHN F. SCHIFALACQUA
16 Civil Division, Fraud Section
17 175 N Street NE
18 Room 9.208
19 Washington, DC 20002
20 Tel: (202) 514-4678
21 *Attorneys for Plaintiff* UNITED STATES OF
22 AMERICA

23 DATED: January 20, 2023

24 J. PATRICK GLYNN
25 Director, Torts Branch
26 BRIDGET BAILEY LIPSCOMB
27 Assistant Director
ADAM BAIN
Senior Trial Counsel

28 By: /s/ Michele S. Greif

MICHELE S. GREIF
CAROLINE STANTON
ROSEMARY YOGIAVEETIL
KENNETH A. PILGRIM
Trial Attorneys
Civil Division, Environmental Torts
175 N Street NE
Room 11.204
Washington, DC 20002
Telephone: (202) 353-2492
Attorneys for defendant UNITED STATES OF
AMERICA

1 DATED: January 20, 2023

MUNGER, TOLLES & OLSON LLP

3 By: /s/ Blanca F. Young
4 BLANCA F. YOUNG
5 560 Mission Street, 27th Floor
6 San Francisco, CA 94105-3089
7 Telephone: (415) 512-4000
8 Facsimile: (415) 512-4077

Attorneys for Defendant CH2M Hill, Inc.

8 DATED: January 20, 2023

ZELMS ERLICH & MACK

9 By: /s/ Rinat B. Klier Erlich
10 CHARLES G. GOMEZ
11 RINAT B. Klier ERLICH
12 20920 Warner Center Lane, Suite B
13 Woodland Hills, CA 91367
14 Telephone: (213) 347-9139
15 Facsimile: (818) 999-9155

Attorneys for Defendant SC&A, INC.

14 DATED: January 20, 2023

EDLIN GALLAGHER HUIE + BLUM

15 By: /s/ Farheena A. Habib
16 ERIN K. POPPLER
17 FARHEENA A. HABIB
18 500 Washington Street, Suite 700
19 San Francisco, CA 94111
20 Telephone: (628) 207-1491
21 Facsimile: (415) 397-1339

Attorneys for Defendant Perma-Fix Environmental
Services, Inc.

21 DATED: January 20, 2023

FURUKAWA CASTLES LLP

23 By: /s/ Bruce Furukawa
24 JAMES CASTLES
25 BRUCE FURUKAWA
26 800 Airport Boulevard, Suite 504
27 Burlingame, CA 94010
Telephone: (415) 632-1584
Facsimile: (415) 510-2240

Attorneys for Defendant Cabrera Services, Inc.

-20-

28 **STIPULATION AND [PROPOSED] ORDER REGARDING DISCOVERY PROTOCOL AND CASE
MANAGEMENT ORDER NUMBER ONE**

DATED: January 20, 2023

DAVIS WRIGHT TREMAINE LLP

By: /s/ Joseph E. Addiego, III

JOSEPH E. ADDIEGO, III

50 California, 23rd Floor

San Francisco, CA 94111

Telephone: (415) 276-6500

Facsimile: (415) 276-6599

Attorneys for Defendant Battelle Memorial Institute

ORDER

Pursuant to stipulation, the parties' proposed Order re Discovery Protocol and Case Management Order Number One is approved.

Dated: February 2, 2023

